

WIRRAL COUNCIL

PLANNING COMMITTEE

22ND AUGUST 2013

SUBJECT:	PROPOSED EXTENSION TO BURBO BANK OFFSHORE WIND FARM.
WARD/S AFFECTED:	NONE DIRECTLY AFFECTED – BUT OF PARTICULAR INTEREST TO MEMBERS OF NEW BRIGHTON, WALLASEY, LEASOWE AND MORETON EAST, MORETON WEST AND SAUGHALL MASSIE AND HOYLAKE AND MEOLS.
REPORT OF:	DAVID BALL, HEAD OF ENVIRONMENT AND REGULATION
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 In relation to the above project, this report is to:

- Provide an update to Members of the progress of this proposed development for which DONG Energy Burbo Extension (UK) Limited ('DONG Energy') has submitted an application for consent to the Planning Inspectorate's National Infrastructure Directorate, and to clarify the Local Authorities' current role in the application process.
- Seek Members views and endorsement of the representations made at officer level to register the Council's involvement in the forthcoming examination in public.
- To update Members in relation to the requirement for a Local Impact Report to be submitted.

2.0 BACKGROUND AND UPDATE OF PROGRESS OF APPLICATION

2.1 An application was submitted on the Planning Inspectorate on the 12th April 2013, and the Planning Inspectorate formally accepted the application for examination on the 19th April 2013. The application is for development consent (which includes a draft deemed Marine Licence) to construct and operate the proposed Burbo Bank Extension Offshore Wind Farm, which comprises up to 69 additional wind turbine generators and associated infrastructure with an installed capacity of up to 258 MW. The project would be located approximately 7 km off the north Wirral coast, 8.5 km from Crosby beach and 12.2 km off the coast of Point of Ayr, Wales, being an extension to the existing Burbo Bank Offshore Wind Farm located on the bed of Liverpool Bay (which comprises 30 turbines). The offshore array site occupies an area of approximately 40 km². In this case, the applicant seeks approval of the parameters of a "design envelope" based on a worst case scenario within which the final layout of the turbines can be defined at a later stage. Cable landfall is proposed for the North Wales coast with grid connection at an existing National Grid sub-station at Bodelwydden and these are subject of separate applications to the Welsh Assembly Government and Denbighshire County Council.

- 2.2 A Development Consent Order (rather than a planning permission) is required because the development is of a scale and type that qualifies as a 'Nationally Significant Infrastructure Project' (NSIP), as set out in sections 14 and 15 of the 2008 Planning Act. It is for this reason that a decision on the proposed development will be made by the Secretary of State, the process of this decision being administered by the Planning Inspectorate's National Infrastructure Directorate.
- 2.3 The Planning Inspectorate, as Examining Authority, is currently carrying out an initial assessment of the application and all representations that have been received regarding the application, and will then set a date for a 'Preliminary Meeting'. This is a procedural meeting only; the merits of the scheme will not be discussed at this stage. Normally it will be held locally to the proposed development, providing a suitable venue is available – it is understood that Wirral is being considered by the Inspectorate (and is currently favoured by the applicant also) as the location for the meeting. The purpose of the Preliminary Meeting is to discuss how the case will be examined; including identifying the issues that the Inspectorate believes should be looked at in more detail. All interested parties will receive an invitation to the Preliminary Meeting – though it is not essential to attend; interested parties will be sent details of how to take further part in the Examination stage in any event.
- 2.4 Members will recall a report was presented to Planning Committee of 26th May 2011, which set out the process for determination of such projects, and the role of the Local Authority in the new infrastructure planning regime. Members resolved to delegate a number of responsibilities to officers, notably attendance of a Preliminary Meeting and the making of representations (orally or in writing) as part of the formal Examination of an application. It was resolved, however, that Member approval would be sought for responses to the project required at pre-application stage (under Section 42 of the Planning Act 2008), and, where required, for a Local Impact Report (see below). Officer's representations at the Examination stage would then be based on these approved responses.
- 2.5 Members resolved at Planning Committee of 28th June 2012 to respond to a pre-application consultation under Section 42 of the 2008 Act, expressing support in principle for renewable energy development, but in relation to the specific development proposed for the Burbo Bank Offshore Wind Farm, highlighting areas of visual impact, noise, recreational navigation, socio-economics, ecology and tourism as key areas of importance to the Local Authority that would require further detailed clarification as the project and associated Environmental Impact Assessment is progressed.
- 2.6 At the time of the Section 42 response, Preliminary Environmental Information (PEI) had been made available for the Council to consider. The application now submitted includes a large amount of information (some 85 documents in total), including a finalised Environmental Statement, Habitat Regulations Assessment Report, Consultation Report and Draft Consent Order.
- 2.7 The Planning Inspectorate has established a website which includes details of the proposed project, the application submitted, advice given to date and representations made by interested parties (including Wirral):
<http://infrastructure.planningportal.gov.uk/projects/north-west/burbo-bank-extension-offshore-wind-farm/>

The developer, DONG energy, has also established a website that provides details of the proposed development, the developer, and the application made:

<http://www.dongenergy.com/burbobankextension/Pages/index.aspx>

3.0 REGISTRATION AND RELEVANT REPRESENTATIONS

- 3.1 Having accepted the application, the Planning Inspectorate has progressed to the next stage of considering the application, which requires registration with the Planning Inspectorate as an “interested party” and the making of a ‘relevant representation’. Normally, the local authority within which a proposed NSIP is located is automatically granted “interested party” status under the legislation, with rights to be heard at the Preliminary Meeting/Examination hearings and separate registration with the Planning Inspectorate is not required. However, in this case, the application is in offshore waters, outside any Local Authority boundary. As such registration of the Council as an “interested party” through the submission of relevant representations was considered necessary to ensure the Council retained the right to participate in the examination process, if required. Guidance on this matter indicates that the relevant representation should be a summary of what an interested party agrees and/or disagrees with in the application, what the main issues are considered to be and consideration of their impact – such registration being required in order to become an ‘Interested Party’. Interested Party status gives an opportunity to participate in the Examination of the application by the Examining Authority and to submit more detailed representations at a later stage in the examination process.
- 3.2 A copy of the application and notification that representations could be registered with the Planning Inspectorate was received on the 16th May, with registration required by the Inspectorate deadline of 24th June. Given this narrow timeframe, and the volume of information provided, an officer level response was submitted to the Inspectorate which sought to highlight areas of importance to the Council, reserving a position to make more detailed written representations at a later stage. The representations submitted sought to pick up the key themes from the Section 42 response issued previously with Member endorsement, though updated to take account of current documentation and comments received from Merseyside Environmental Advisory Service (MEAS), who are advising both Sefton Council and Wirral Council on the proposal in relation to environmental, ecological and Habitat Regulations Assessment matters.
- 3.3 A copy of the representations made alongside the Council’s registration is enclosed at Appendix 1 of this report. The purpose of this report is to recommend that Members endorse the representations made at this registration stage to enable officers to participate at the forthcoming Preliminary Meeting.
- 3.4 It should be noted that whilst representations have been made in relation to visual impact, that National Planning Statements discourage the refusal of development consent solely on the grounds of adverse effects to visual impact or seascape unless an alternative layout could reasonably be proposed; or taking account of the sensitivity of the receptor, the harmful effects are considered to outweigh the scheme benefits. Given this, it is not recommended that further work is undertaken or commissioned to critically appraise the seascape and landscape visual impact assessment (SLVIA) submitted by the applicant.

4.0 LOCAL IMPACT REPORT

- 4.1 As previous reports to Members have noted, Section 104 of the Planning Act 2008 requires the Secretary of State to have regard to Local Impact Reports (LIRs) in deciding applications for Development Consent Orders. The Act defines an LIR as “a report in writing giving details of the likely impact of the proposed development on a Local Authority’s area (or any part of that area)” (section 60(3)).
- 4.2 Whilst it was initially understood that Wirral Borough Council would be required to submit a Local Impact Report, it has now been clarified by the Developer and the Planning Inspectorate, that a Local Impact Report will not be requested from the Council.
- 4.3 Such reports are only required from authorities who are directly affected by an infrastructure development – and in this case the application is in offshore waters, outside any English Local Authority boundary.
- 4.4 Given the above, it is not recommended that the Council prepare further representations than those that are attached to this report (for which endorsement is sought).
- 4.5 Considering local impacts, it should be noted that a number of individuals and interest groups from Wirral (e.g. Hoylake Village Life and The Wirral Society) have registered representations with the Planning Inspectorate directly, and will be invited to attend the relevant hearings held to examine the application.

5.0 RELEVANT RISKS

- 5.1 None relevant.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 Not applicable.

7.0 CONSULTATION

- 7.1 No public consultation has been undertaken. This paper is to be circulated to members of the Planning Committee and all ward councillors.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 8.1 Local interest groups, including voluntary, community and faith groups, may be consultees to the Development Consent application.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 9.1 None relevant.

10.0 LEGAL IMPLICATIONS

- 10.1 None relevant.

11.0 EQUALITIES IMPLICATIONS

11.1 It is not considered that this report has relevance to equality.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 The expansion of renewable energy generating capacity is considered consistent with the aspirations of the Liverpool City Region to achieve a transformation to a low carbon economy and as such this report recommends that the proposed windfarm extension be supported in principle.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 As detailed above.

14.0 RECOMMENDATIONS

14.1 Recommend that Members endorse the representations made at this registration stage, to enable officers to participate at the forthcoming Preliminary Meeting.

14.2 That Members note the update provided, and in particular that a Local Impact Report will not be prepared in this instance.

15.0 REASON FOR RECOMMENDATION/S

15.1 In order to enable officers to make representation at a Preliminary Meeting for the Development Consent Order.

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APPENDICES

1. Text of Representations Made at Registration Stage

REFERENCE MATERIAL

As noted above, further details of the project can be found on the applicant's website at: www.burbobankextension.co.uk

SUBJECT HISTORY

Council Meeting	Date
Environment Transportation and Planning Strategy Select Committee (original wind farm)	22 nd October 2002.
Cabinet	Thursday 4 th November 2010 (Minute 193).
Planning Committee	26 th May 2011.
Planning Committee	28 th June 2012.

Appendix 1 – Text of Representations Made at Registration Stage

This representation is made on behalf of Wirral Borough Council, as Local Planning Authority and is given at officer level. It incorporates comments from the Council's specialist advisors, Merseyside Environmental Advisory Service (MEAS).

Given the limited time between receipt of the application and accompanying information including notification that representations could be made (correspondence received 16th May), and the date for registration (24th June) - and given the volume of information provided and the resources available to the Council at this time, this response seeks to highlight areas of importance to the Local Authority, upon which it would wish to reserve the right to make more detailed written representations at a later stage.

Officers wish to express support in principle for offshore renewable energy development, but in relation to the Burbo Bank Wind Farm extension, wish to highlight areas of visual impact, noise, coastal processes, ecology, socio-economics and tourism, and offshore shipping and navigation as key issues of importance to the Local Authority. As the cable landfall and on-site installation and grid connection is in North Wales we make no comment on onshore and intertidal elements.

The Environmental Statement (ES)

The Environmental Impact Assessment has been conducted using appropriate and agreed methods and has been informed by relevant and up to date surveys, modelling, evidence gathering and desk studies. The scope and methodology of these has been agreed with key stakeholders and consultees throughout the process. Overall the ES is comprehensive and of good quality and there are no substantive issues arising from it, subject to the following comments.

Parameter-based Assessment - One significant area of uncertainty relates to the final size, configuration and installation methods for the turbines. The ES has adopted a parameter-based assessment method and has been rigorous in its assessment of the different potential scheme configurations and methods in order to present a likely worst case scenario for each impact type in compliance with established precedent. Whilst it is understood why this approach has been adopted for practical and commercial reasons, it does introduce uncertainty and complexity into the impact assessment and leaves a number of issues unclear in terms of impact assessment and the requirement for mitigation. Wind farm configuration, monopole/foundation arrangements and installation techniques and spoil arisings are all areas of uncertainty which will need to be specifically addressed through the Marine Licensing processes.

Visual Impact – it is considered essential that matters of landscape and visual impact form an important part of the decision making process. The North Wirral coastline includes a number of countryside recreation sites, and areas of undeveloped coastline. The coastline is important for recreational and leisure visitors as well as to residents, and these areas are sensitive to change, as is acknowledged within chapter 20 of the submitted Environmental Statement (ES), and the Annexed Seascape, Landscape and Visual Impact Assessment (SLVIA). The chapter and annex include a series of assessments, considering viewpoints receptors, areas that are locally designated, and regional seascape units.

The assessment utilises Scenario 3 for the development to undertake an assessment of the significance of maximum adverse effects during operation. There is explanation for this

choice at paragraph 20.7.4 (1.2.5 of Annex 20), however, the explanation is limited – the rationale would appear to be based on analysis of Zone of Theoretical Visibility (ZTV) modelling and wireframe modelling, rather than consideration of the visual receptors. Indeed, it is accepted that the perception of worst-case effects may vary between visual receptors. Given this, it is questioned whether Scenario 1 should have been considered more fully in an assessment of the significance of effects – the development of a greater number of more closely spaced shorter turbines might potentially have a different impact upon receptors than that considered.

Officers wish to highlight the assessments made within the SLVIA that moderate and major-moderate effects will be felt at receptors within the Borough – notably, considering the viewpoints in Leasowe and Hoylake where Major-Moderate effect will result, and within the North Wirral Seascape Unit, where effects are predicted to be Moderate. It is questioned why representative viewpoints within Wirral do not appear to have been carried forward for consideration of in-combination and succession impacts (at paragraph 8.11 and table 1.15). A further question is raised as to the grading of the impacts to Wirral's designated Areas of Special Landscape Value (ASLV), where the significance of effect appears to be 'negligible', Wirral's development plan policies highlight the importance of the skyline and views into and out of such areas – the ASLV along the west coast of Wirral including important visitor attractions such as Hilbre Island and the Royal Liverpool Golf Course. The assessment made for the ASLVs does not seem to correlate to assessments made at nearby receptors or the corresponding RSU.

Noise - Chapter 11 of the Environmental Statement, as with the Preliminary Environmental Information previously presented, indicates that that under worst conditions, in some circumstances during the construction phase, without mitigation there may be impacts to humans on-shore – levels temporarily and marginally be above the WHO guidelines for night noise. Whilst it is noted that the ES acknowledges that it will be important to maintain interaction with the local population (the DONG Energy site office telephone number will be displayed at the onshore construction site for residents to voice any concern if they become affected by construction activities), and instances will be logged and made available to the local Council Environmental Health department if requested, it is not clear what mitigation measures would be considered. It is considered that this is an important issue that must be resolved as part of the decision making process.

Metoccean and Coastal Processes – This assessment is again comprehensive in scope and approach and the worst case scenarios have been used as the basis of impact assessment – this is an appropriate and cautious approach.

The project area is within a relatively shallow and dynamic part of Liverpool Bay which shows evidence of regular mobilisation as a consequence of tidal influences and prevailing weather conditions, the prevailing benthic communities (biotopes) are already well adapted to the conditions. Whilst the worst case scenario envisages a significant deposition of coarse and fine grained material in the vicinity of each turbine monopole and possibly to significant thicknesses, it is accepted that the temporary nature of the construction activity plus the natural dynamics of the area will mean that any impact is likely to be short term in duration and benthic communities will rapidly re-colonise the seabed or adapt to temporary changes in seabed topography and conditions. Post construction monitoring will however be necessary to assess the speed of recovery and identify any residual impacts.

The ES concludes that there will be no foreseeable potential for direct or indirect effects of the Project on the hydrodynamic or sedimentary regimes at Formby or elsewhere on the

Sefton Coast, Heswall Cliffs or elsewhere on the Dee Estuary or affecting the future management requirements of the Mersey River training walls. Given that these conclusions are substantiated by assessment of littoral coastal processes, tidal currents and wave climate modelling, no specific issues are identified at this stage, but we would wish to reserve our position over whether there will be a need for a coastal monitoring requirement.

Offshore Noise, Fish and Fisheries - The ES chapter that deals with this matter appears to be incomplete (see table 11.18). Additional comments are as follows:

The utilisation of “soft start up” for piling operations as a warning for marine animals to enable them to leave the area of greatest noise intensity is supported;

A significant resident/semi resident population of grey seals live on the West Hoyle Bank and regularly range across quite large areas of Liverpool Bay and have specifically been included in the assessment of noise and effects on marine mammals (Chapters 11 and 14 respectively). Given that the noise propagation (75dBht, moderate magnitude and within the smaller 90dBht, major magnitude) from construction and decommissioning activities are predicted to travel widely across their range, including local feeding areas in Hilbre Swash; it is considered that further assessment is needed on the predicted moderate impact to seal (and marine Cetaceans) behaviour and temporary displacement including (i) whether additional mitigation measures are necessary and feasible and (ii) that monitoring is put in place to assess the affects of the construction impacts alone and in combination with other significant marine noise generating activities e.g. other piling.

A number of representative species have been included within the noise assessment with dab being used as a proxy for other bottom dwelling commercially valuable species (e.g. plaice and sole). Without mitigation the ES concludes that the adverse impact on Sole spawning behaviour will be moderate or large adverse. Whilst guided by MMO (Cefas) and Environment Agency, MEAS recommend that the commitment to mitigation to avoid piling operations in the period 1 April to 31 May should be implemented. Such an approach also helps reduce impacts to salmon and sea trout smolt originating from the Rivers Dee and Mersey.

Whilst it remains unclear what scour protection measures are considered necessary around some or all of the monopoles/foundations consideration should be given to appropriate design to encourage commercially valuable species. Currently there is significant existing competence and increasing interest within the Liverpool City Region on fisheries and aquaculture. Whilst not an issue for the Development Consent Order process, scour protection may offer a significant opportunity for design of habitat to encourage valuable target species such as lobster with the resultant local economic benefits. Similarly, opportunities to co-locate fish farming opportunities within the wind farm site could also be usefully explored in the future.

Monitoring Data – the ES including proposed mitigation measures and subsequent licensing processes will yield a significant body of data and information that can be used to inform strategic planning and coastal monitoring within the Liverpool City Region. Given that the City Region is also engaged in a Regulatory Pilot to support the City Deal with Government and in line with the increasing openness for data and information accessibility, the Districts request that monitoring reports and data be provided to the following as soon as they become available: Merseyside Environmental Advisory Service, Sefton Council Investment Programmes and Infrastructure (Built Environment) and Wirral Council Regeneration and Environment Directorate.

Habitats Regulations Assessment (HRA) Report.

The HRA is comprehensive in scope and largely contains a robust, evidenced-based technical appraisal of the issues. Throughout the HRA process there has been much welcome dialogue and consultation co-ordinated by the applicant with key stakeholders and regulators. MEAS are content with the scope of the in-combination assessment of other plans and projects.

The HRA does not however, assess the impact of different turbine foundation installation techniques sufficiently. Whilst accepting that the installation method has yet to be chosen, it is important that this impact, which could result in spoil generation, is fully considered in the Marine Licence application. It is understood that colleagues in Natural Resources Wales have already identified this as a matter that needs to be addressed adequately.

Overall, it is considered that the evidence base and method for assessment is acceptable. There are however, some matters of detailed interpretation within that report relating to seabird populations e.g. mortality, significance, avoidance rates which we believe that Natural England and Natural Resources Wales may wish to comment upon. This requires specialist ornithological input in our view and is necessary to ensure that PINS is able to complete and substantiate the test of likely significant effects based on the best available information and professional judgement.

Clearly, further specific iterations of the HRA may be required to assist other consenting processes such as Marine Licensing and the Coastal Authorities should be consulted at that stage in the interest of facilitating the regulatory processes

Socio Economic and Tourism Impacts

Chapter 33 of the ES considers the potential benefits of the proposed development through added value generated to the local economy and the potential for job creation. There is evaluation of the benefits of the offshore development. Whilst the evaluation of effects is generally agreed with, further clarification or 'certainty' of the potential economic benefits of the proposal would be welcomed. The commitments in the procurement strategy section (outlined at 33.9.130) of the chapter are not well defined – a firmer obligation to support apprenticeship schemes and finance the provision of employment and educational opportunities would be welcomed, and could be made as an undertaking by the applicant.

Impacts to tourism are also considered in this chapter, and the link is made to the visual impacts of the proposed development. It is acknowledged that impacts to tourism activities will be most likely be felt where the primary focus of tourism is on the enjoyment of the landscape, its wilderness and tranquillity. The conclusion reached is of 'slight' adverse impact, and the chapter notes that there is little evidence that there would be any significant impact to tourism (overall). It is, however, acknowledged that there will be localized effects – in particular, the displacement of offshore tourism and recreation will predominantly affect Wirral (paragraph 33.9.33) and it is noted that the effects will be moderate for some firms. Given this officers wish to highlight this as an issue of importance to the Borough in the decision making process.

Whilst there appears to be a commitment to give consideration to a discretionary funding scheme for local community organizations and to work with Local Authorities on such a scheme, at this stage of the project it is not detailed. Given the above impacts – and that

local communities and firms may need assistance in the medium duration, to restructure and continue to operate, it is considered that further clarity could be given on this matter. The scope and focus of a funding scheme should be defined – for example targeted at those areas where localised economic impacts have been identified, such as charter fishing employment on Wirral.

Offshore Shipping and Navigation

Whilst the assessment undertaken to date is considered to be largely thorough, officers would wish to reinforce any concerns expressed by port operators in relation to adverse impacts on shipping movements to and from the Mersey Estuary, (given the importance of the maritime economy locally).